89-1047

Supreme Court, U.S.
FILED
AUG 29 1989
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

In The

Supreme Court of the United States

October Term, 1989

MAJOR F. BOGGERTY and ADEN BOGGERTY,

Petitioners,

vs.

EARNESTINE WILSON, JACKIE VEASLEY, CYNTHIA MARTIN, DAVID MURRAY and LT. WARREN COLEMAN,

Respondents,

and

THE CITY OF DETROIT,

Respondent.

APPENDIX E AND F

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APPENDIX E
EXCERPTS FROM TRANSCRIPT OF DR. ERIK BECKMAN

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THE COURT: We are talking about a single person now. You are not answering my question. I am talking about Officer Wilson. Do you know what training she received and what on-the-job training she received, what training she received in the Academy; do you know that?

THE WITNESS: Yes, Your Honor.

THE COURT: You know that of your own knowledge?

THE WITNESS: Yes, Your Honor.

THE COURT: All right. I think you should lay it out on the record, of what he knows.

Q. (Continuing by Mr. Howarth): Dr. Beckman, what is it that you know about Earnestine Wilson's training, and can you tell us

where, from what source that knowledge comes to you?

A. The officer describes having completed the Police Academy, which is a Police Academy with a curriculum which meets the approval of the State of Michigan.

Q. What else, if anything, do you know about the training?

THE COURT: We are talking 1979, you understand that?

MR. HOWARTH: Yes.

THE COURT: All right.

Q. What, if anything else, do you know about the training Earnestine Wilson received up to October, 1979?

A. Just her description that it was hurried-up training.

the objection, beyond that of Mr. Seward, would go to weight.

MR. SEWARD: Well, as I understand it, he was asked what he based his knowledge on and he says he knows what training she received because she testified she completed the Detroit Police Academy which he considers to be an acceptable standard, and as far -- so I am not sure I know where the question is going.

THE COURT: Well, we have to await the next question.

Q. Doctor, you say you formed an opinion. In your opinion, was Police Officer Earnestine Wilson, as of October 24, 1979, a properly trained police officer, given the standards that you enunciated to us earlier?

MR. SEWARD: I have a continued objection. I don't mean to keep interrupting, Doctor.

THE COURT: Go ahead.

Q. Doctor, what is your opinion?

A. She did not meet those standards.

Q. In what ways, Doctor, was Earnestine Wilson deficient as far as training was concerned?

A. She was not given that training which is required, according to National Standards after the Police Academy, and those standards require continuous in-service training at a minimum, 40 hours a year, although that would generally be

conceived as not enough, but that is an established minimum; it would not be very good. So that each police officer received refresher training as well as training in new additional material throughout his or her police career, from the date of graduation until their retirement and Officer Wilson did not receive such training.

Q. Thank you. Dr. Beckman, did you review material relating to a patrolman, police personnel by the name of David Murray?

A. Yes, I did.

Q. What material did you review with reference to Patrolman David Murray?

A. I read his Injured Prisoner Report as well as his deposition.

Q. Did you apply any standards in making

a comparison to David Murray's actual training and the standards that you have enunciated for us earlier?

A. I formed an impression of the training that he had.

Q. All right. Doctor, in your opinion, was the training of David Murray sufficient for the position of police Doorman as of October 24, 1979?

MR. SEWARD: Same objection, Your Honor, for the same reasons that I raised in the earlier question.

THE COURT: I think at this point the objection is well taken because he laid no foundation as to what he knows about the training of Officer Murray.

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MR. HOWARTH: Thank you, Your Honor.

Q. What did you find out was the level of training for Patrolman Officer David Murray, most especially, Dr. Beckman, with respect to being a Doorman?

A. There was no special training for that particular assignment.

Q. How does that comport, if at all, to the National Standards?

A. It does not meet those standards.

Q. What are the standards with respect to the training of Doormen?

A. The National Standards indicates that each police officer must be trained on a regular basis after leaving the Police Academy, in the normal duties performed by that police officer. It has to include certain basic things as well, but it has to be job-related.

Q. Based upon the statements of Officer Murray as to his training, based upon the standards as you know them, did you form a conclusion as to whether Officer David Murray was properly trained as a Doorman as of October 24, 1979?

MR. SEWARD: Just so the record is clear, I have a continuing objection to this line of questioning.

THE COURT: He still hasn't said anything about what he knows to be the training of Officer Murray.

MR. HOWARTH: Well, Your Honor, my understanding was that Dr. Beckman testified that Officer Murray's

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the deposition indicated he had no training to be a Doorman.

THE COURT: Put it in the record, if you want to, put it in so we know what you are talking about. We don't know. Let him state what he knows to be the training of Officer Murray.

Q. Dr. Beckman, what do you know to be the training of Officer Murray as of October 24, 1979?

A. My recollection from the documents, there was no training for that position.

Q. Which position?

A. Of Doorman at the precinct.

Q. Based upon that, do you have any opinion as to whether Officer Murray was properly trained as a Doorman?

A. He was not.

Q. Okay. Dr. Beckman, what do you under-

stand the position of Doorman to be?

A. It's a position I refer to a jailer, lock-up jailer, a person in charge of the lock-up facility.

Q. Doctor, do you regard that as an important, unimportant or somewhere in the middle between those two extremes, position within the police precinct work?

A. Well, it's an important position. I would not refer to any police position with anything else than important, however.

Q. Doctor, what training might a person receive, according to the National Standards that you have given us this morning,

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Q. Go ahead. I will ask it again, it probably will be easier. What do you mean by "booking charges"?

A. Charges on which a prisoner is booked so the jailer has an understanding of whether it is a violent arrestee or non-violent arrestee; whether it's a felony or misdeameanor. The individual jailer or Doorman must have training in the care and safety of prisoners to detect degrees of intoxication, degrees of a person possibly under the influence of drugs, a person who might be depressed and/or suicidal. A person in need of medical attention, all of which require note-taking and classification of that prisoner, and in some cases, action upon those findings. Furthermore, suicide prevention, if I haven't already said

that. Lodging of a prisoner. The individual must have an understanding of jail operation principles such as the necessity for checking on a prisoner at regular intervals; is determined by that person's condition and that's really a partial list. But I think that is --

Q. (interposing): I understand, Doctor. Did you review any materials with respect to the training procedures and education of a person known as Lt. Warren Coleman?

A. Yes, I did.

Q. What materials did you review?

A. The lieutenant's deposition.

Q. What did you determine as to what training Lt. Coleman had

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been an adequate foundation for the witness to testify to what training this man has received in the last 24 years.

THE COURT: He has given what foundation he had. Now whether it is adequate or not will go to the weight of the testimony given to the jury.

MR. SEWARD: Very well.

MR. HOWARTH: Thank you.

Q. When you made the comparison, Dr. Beckman, did you form a conclusion as to whether Lt. Coleman, as of October, 1979, was adequately trained to a Shift Commander at the precinct level?

A. Assuming that what I read is true and correct and reflects that training which the person has received.

Q. Let's assume that?

A. Then the answer: That there is no conformance with National Standards.

Q. In what way was the training given to Lt. Coleman, assuming the answers in the deposition testimony were correct, in what way was Lt. Coleman's training deficient?

A. The lack of annual in-service continuous training that is job-related.

Q. Dr. Beckman, you have indicated that you are familiar with the training that was being provided by the Detroit Police Department between the years 1970 and 1979, to police officers, sergeants, lieutenants; is that correct or have

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I misstated what you have testified?

A. Would you repeat the years?

Q. Sure, 1970 thru 1979?

A. Yes, sir, that is correct.

Q. Would you tell us again how you became familiar with the training procedures within that period of time?

A. By keeping abreast of the field, by having conversations with police officers of various ranks, some within the Detroit Police Department, some outside the Detroit Police Department, and feedback about different levels of training that exists in different police departments.

Q. Dr. Beckman, based upon that, were you able to form an opinion as to whether the training methods used by the Detroit Police Department, between the years 1970 and 1979, did or did not comport

to National Standards?

A. Yes, I have an opinion.

Q. And what is your opinion?

A. They did not and never have.

MR. HOWARTH: Thank you, Doctor. I have no further questions.

MR. SEWARD: I don't have any questions.

CROSS-EXAMINATION

BY MR. DANIEL:

Q. Dr. Beckman, you read -- you listed a number of documents that you reviewed in order to come to the conclusions that

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A. It never lost its certification.

Q. That is my question. I don't want you to jargon on. I am asking you whether there was ever a period of time between 1970 and 1979, that the Police Academy was not certified by this agency?

A. It never went that far, but there was a threat of loss of certification.

Q. I am not talking about threats. Did the Council ever say: "You are not qualified to instruct police officers in the State of Michigan:" "yes" or "no"?

A. Yes, that was said to the Detroit Police Academy.

Q. And was the certification taken away?

A. It never went that far.

Q. When was that, sir?

A. In the 1970's.

Q. When?

A. I can't give you the date today.

Q. Pin it down? Well, you say you know the training was defective. You are certified here as an expert; when between 1970 and 1979 was that statement ever made?

A. I would say approximately during the mid-'70's.

Q. Can you be more specific than that?

A. No, not without going to the records. The statement was made.

Q. And can you tell me how many hours of training they give to

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into his groin? What training do you understand the police didn't receive that would have prevented them from doing that?

A. Training in the use of force, the limitations of the law regarding use of force.

Q. Are you suggesting that you believe that if someone did that to Mr. Boggerty it was because they weren't trained to know that was the wrong thing to do? Sir, do you need to be a policeman to be trained to know? Do you -- as a man, didn't you learn, as a very young boy, it was improper to knee someone in the groin or did you just learn that when you went to the Police Academy out in Orange County?

A. No.

Q. Sir?

A. I am trying to respond to your question.

Q. Are these tough questions? I will ask you again. I want to make them simple. Is it your notion that you have to be trained at a Police Academy to know you shouldn't knee a grown man in his testicles or is that something you probably learned when you first started playing games before you went to nursery school?

A. One wouldn't expect training to be detailed, necessarily, and repeated on something as simple as that, but according to the material in this case, nevertheless, that is one

APPENDIX F
EXCERPTS FROM DEPOSITION TRANSCRIPT OF FRANK DONLEY

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training that he understands Mr. Murray got before.

THE COURT: It is a preliminary question. He can answer it "yes" or "no". If he has an opinion, then he will have to give him a hypothetical question; there is no question. Go ahead.

Q. Do you have an opinion?

A. Yes.

Q. He was not properly trained?

A. He was not properly trained.

Q. And what do you base that opinion on, sir?

A. Mr. Murray's deposition testimony.

Q. And what did Mr. Murray indicate at his deposition about his training?

A. That he received no training as a

Doorman.

Q. Did he indicate anything else with regard to his hiring and training as a Doorman for the City of Detroit Police Department?

A. He said he had not been trained to work, to carry out the Doorman function. He was not aware of any training programs.

Q. At that point in time, based on your personal knowledge, did the City of Detroit have a training program for its Doormen?

A. Yes.

Q. And what program was that?

A. The Detention Officer Training curriculum of 168 hours.

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A. The idea is to get that prisoner, an intoxicated one that is acting in a violent manner, under control in an area where they can be safe and the staff is also safe while and until that person is able to care for himself or herself.

Q. And if Mr. David Murray had been properly trained and the individual had been placed in a cell, what should have been his responsibilities, if any?

A. Well, if the prisoner was visibly intoxicated, then he should not have been removed from that cell to make a phone call.

MR. DANIEL: He should not have been removed?

THE WITNESS: That is correct.

Q. Why do you say that, sir?

A. Well, there is a number of reasons. A person could fight. When he is in the

cell, locked in a cell, it is very unlikely -- not much harm can be done to anybody. If he is taken out of the cell and has contact with an officer or people out in the lobby area, he can cause quite -- if a person is in fact intoxicated, stumble and fall and cause an injury.

Q. Are there any other reasons why the person should not have been taken out of the cell if there is a claim that the person was intoxicated?

A. No, not unless the person is bonded out and there is somebody to care for that individual.

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A. Yes.

Q. Have you reviewed -- explain to the jury other materials you have reviewed in order to come to court today to testify regarding this case?

A. This question was in the deposition of Inspector James Jackson who is director of the Training Academy.

Q. Do you know Inspector Jackson, personally?

A. Yes.

Q. Have you ever been associated with the training program at the criminal Justice Institute, with the Detroit Police Department?

A. Consulted with Mr. Jackson and his staff in setting up the training curriculum in 1978 and '79 for detention officers.

Q. Based on your knowledge of the training programs which is set up or has been set

up by the City of Detroit Police Department regarding the detention practices, do you have a professional opinion as to whether the City of Detroit has a history of properly training its Doormen?

A. Yes.

Q. And what is that opinion, sir?

A. They are not properly trained.

Q. On what do you base your professional opinion, sir?

A. Primarily the deposition testimony of Inspector Jackson and he indicates that he is aware of only one training program for the detention officers and he believes it occurred in

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Doormen and lieutenants at local precincts during that period of time?

A. I don't understand your question, Mr. Mateo.

Q. I think it's a little convoluted. For that period of time, January '79 thru October '79, you indicated you only received the one list?

A. Yes.

Q. Okay. Let me start it this way: Is it your professional opinion there should be an ongoing training program for all Doormen for the City of Detroit?

A. Yes.

Q. Is it your professional opinion that an ongoing training program should be going on on a continuing basis?

A. Yes.

Q. What do you mean by "continual basis"?

A. That the initial training program consists of 168 hours and then 40 hours a year after that as an update.

Q. Is it your professional opinion, before a Doorman or lieutenant is placed in that position, that everyone should go through that training procedure?

A. Yes.

Q. Now during the period of time from early January 1979 to October of 1979, do you have a professional opinion as to whether there was or was not an ongoing training program in the City of Detroit Police Department for Doormen and

person, insuring that he gets medical attention. Do you have a professional opinion as to whether both the lieutenant and the Doormen were properly trained to handle that entire situation?

MR. SEWARD: That has been asked and answered. I think he said he does not have an opinion nor can he form an opinion whether they were trained or didn't carry out their training properly or whether they were simply not trained.

THE COURT: I understand he answered it. Answer it again.

THE WITNESS: Can I refer to the testimony that I have read?

THE COURT: You just answer that question.

Q. Do you need assistance or do you need

to rely on information that you have right now?

A. The deposition testimony I read.

Q. Okay. What deposition testimony is that?

A. The lieutenant's deposition testimony and the deposition testimony of Doorman Murray.

Q. Okay. And based on that testimony, do you have an opinion as to the question I just asked you?

A. Yes.

Q. What is that opinion?

A. That they were not trained.

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I think I can make that objection.

Q. In order for you — you have rendered an opinion here today?

A. Yes.

Q. You have rendered other opinions to Mr. Mateo; is that right?

A. Yes.

Q. In order to render those opinions, did you have to come to conclusions in your own mind, on the question of whether or not Mr. Boggerty was drunk or not? you can answer that "yes" or "no". Did you have to come to conclusions or could you render the opinions you did without coming to conclusions on that question?

A. I did not come to conclusions on the question.

Q. So as you sit here right now, you have not formulated an opinion as to whether or not, at the time of this incident, Major Boggerty was intoxicated or not intoxicated?

A. No.

Q. You are telling the jury you could still render an opinion even though you have not resolved that question?

A. Yes.

Q. If he was not intoxicated, sir, wouldn't it be true that whether or not these officers were trained in handling intoxicated persons, wouldn't matter?

A. They must be trained whether the person is intoxicated or not.

Q. No, listen to my question. Listen to my question. You

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testified that the lieutenant and the Doorman, in your opinion, their training was not appropriate?

A. Yes.

Q. Is your testimony that you don't have to conclude whether or not this gentleman was intoxicated, to arrive at that conclusion?

A. That's correct.

Q. It doesn't matter to you one way or the other?

A. It does not.

Q. You are saying, that whether he was drunk or if he wasn't drunk, if he was sober, they weren't appropriately trained to handle him?

A. That is correct.

Q. So you are saying this training wasn't adequate, right across the board?

A. Yes.

Q. And you come to that conclusion based on the fact that Mr. Murray said — as to Mr. Murray — that "I had not received any training"?

A. I came to that conclusion based upon the fact Mr. Murray stated that, in his opinion, Mr. Boggerty was very intoxicated.

A. (interposing): And additionally, that he had no training.

Q. Let's take one gentleman at a time, Mr. Donley. If there